



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 28, 1998

Mr. Barney L. Knight  
Attorney at Law  
Executive Office Terrace  
111 West Anderson Lane, Suite D218  
Austin, Texas 78752

OR98-2518

Dear Mr. Knight:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119171.

The City of Dublin (the "city"), which you represent, received a request for "a copy of all policies of liability insurance covering the City of Dublin and its employees and agents including members of its police force which was in effect from April 1, 1997 through April 1, 1998." You contend that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Initially, we note that the requestor is concerned that your August 5 letter to him was improper because you requested that he advise you as to whether your version of the facts surrounding his request was accurate. The Open Records Act generally prohibits a governmental body from inquiring into a requestor's motives for obtaining information. Gov't Code § 552.222; Open Records Decision Nos. 542 (1990), 508 (1988). It follows that it is improper for a governmental body to attempt to establish a link between a request for information and pending litigation through inquiries of the requestor.

Section 552.103(a) of the Government Code excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and

(2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). You have explained how the requested information relates to pending litigation to which the city is a party. *Winder v. City of Dublin*, No. 97-07-23608-CV (266<sup>th</sup> Dist. Ct., Erath County, Tex.). Therefore, we conclude that the city may withhold the requested information from disclosure at this time pursuant to section 552.103(a).<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/mjc

Ref: ID# 119171

Enclosures: Submitted documents

cc: Mr. George C. Dixie  
Dixie and Mauzy, L.L.P.  
2301 Cedar Springs, Suite 300  
Dallas, Texas 75201  
(w/o enclosures)

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<sup>1</sup>We note that if the opposing party in the litigation has seen or had access to any of the information at issue, there would be no justification for withholding that information pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).